

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

LYDIA BERRY

PETITIONER

v.

No. 1:23CV26-SA-JMV

STATE OF MISSISSIPPI

RESPONDENT

CERTIFICATE OF APPEALABILITY

The court has entered a final judgment in a *habeas corpus* proceeding in which the detention complained of arises out of process issued by a state court under 28 U.S.C. § 2254, or in a proceeding under 28 U.S.C. § 2255 or § 2241, and the court, considering the record in the case and the requirements of Fed. R. App. P. 22(b) and 28 U.S.C. § 2253(c), finds that **a certificate of appealability should not issue.**

For the reasons stated in its opinion, the court finds that the Petitioner has failed to “demonstrate that the issues are debatable among jurists of reason; that a court could resolve issues in a different manner; or that the questions are adequate to deserve encouragement to proceed further.”

Barefoot v. Estelle, 463 U.S. 880, 893 n.4, 103 S.Ct. 3383, 3394 n.4, 77 L.Ed.2d 1090 (1993)

(superseded by statute) (citations and quotations omitted); 28 U.S.C. § 2253(c) (1) and (2).

Specifically, the court finds, for the reasons set forth in its memorandum opinion and final judgment, that the instant petition for a writ of *habeas corpus* should be dismissed with prejudice and without evidentiary hearing as untimely filed.

SO ORDERED, this, the 21st day of February, 2024.

/s/ Sharion Aycock
U. S. DISTRICT JUDGE